

MEMORANDUM

December 19, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: FRANSCELL, STRICKLAND, ROBERTS, AND LAWRENCE
Paul Beach

ROGER H. GRANBO
Assistant County Counsel
Law Enforcement Services Division

RE: Skyla Moreno, et al. v. County of Los Angeles
United States District Court Case No. CV 05-07941

DATE OF
INCIDENT: January 10, 2005

AUTHORITY
REQUESTED: \$80,000

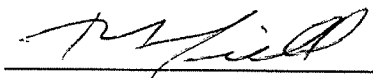
COUNTY
DEPARTMENT: Sheriff's Department

CLAIMS BOARD ACTION:

☒ Approve

☐ Disapprove

☐ Recommend to Board of
Supervisors for Approval


_____, Chief Administrative Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on December 27, 2006

SUMMARY

This is a recommendation to settle for \$80,000 a lawsuit filed by Skyla Moreno, Gabriel Silva and the Estate of Jerry Moreno for the wrongful death of Jerry Moreno, who died while in the custody of the Sheriff's Department.

LEGAL PRINCIPLE

A police officer may be liable for violation of federal civil rights if unreasonable or excessive force is utilized in the control of a Jail inmate.

SUMMARY OF FACTS

On January 10, 2005, Jerry Moreno, who was an inmate at the Pitchess Detention Center–North Facility, was acting violently toward other inmates and failing to follow orders from the Jail staff. Mr. Moreno had armed himself with two long pieces of metal from the frame of a lighting fixture in his cell. Because of his extreme behavior, an Emergency Response Team ("ERT") was activated to gain control of Mr. Moreno and extract him from his cell.

The ERT team fired hard plastic balls filled with pepper spray powder at Mr. Moreno, but they had no effect on him. They then used a Taser gun, which momentarily stunned Mr. Moreno and gave the ERT enough time to enter the cell and grab him while he was on the top bunk. Mr. Moreno continued to struggle, and as he was being removed from the bunk, he struck his head on the bunk's metal frame and sustained a laceration to his head.

When the Deputies placed Mr. Moreno on the floor, they used the Taser again, and were eventually able to handcuff Mr. Moreno. Because he continued to struggle, the Deputies used a hobble restraint to immobilize his legs. The Deputies took him to the visiting area pending the arrival of Los Angeles County paramedics, who had been summoned.

Even though he was restrained, Mr. Moreno continued to yell and thrash around on the ground. When the paramedics arrived, Mr. Moreno was placed on a gurney, put in an ambulance and transported to the hospital. Although Mr. Moreno was placed on his side when he was initially put on the gurney, he had repositioned himself onto his stomach once he was in the ambulance.

As the ambulance arrived at the hospital, Mr. Moreno was in full cardiac arrest. He was revived by hospital staff, placed on a ventilator and died on January 14, 2005. His daughter, Skyla Moreno, his minor dependent, Gabriel Silva, and his estate sued the County for wrongful death.

DAMAGES

Should this matter proceed to trial, we estimate the potential damages could be as follows:

Loss of Care Comfort and Society

Skyla Moreno \$250,000

Gabriel Silva \$250,000

Civil rights attorneys' fees \$250,000

Total \$750,000

The proposed settlement calls for the County to pay a total of \$80,000 for all claims for damages, costs and attorneys' fees.

STATUS OF CASE

The trial court proceedings in this case have been suspended pending consideration of this proposed settlement. Expenses incurred by the County in defense of this action are attorneys' fees of \$22,829 and \$415 in costs.

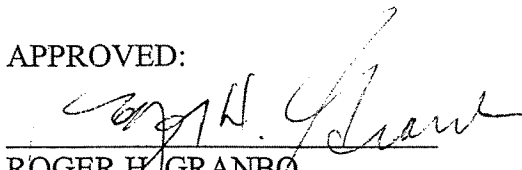
Mr. Moreno's mother, Eva Moreno, and his three brothers, Louie Moreno, Arnold Moreno and Jerry Vincent Moreno also sued the County for his wrongful death in a separate lawsuit. We settled that lawsuit earlier this year for \$75,000.

EVALUATION

This is a case of disputed liability. According to plaintiffs' experts, allowing Mr. Moreno to remain on his stomach while restrained resulted in his breathing being restricted, which caused him to go into cardiac arrest. Our experts would testify that the cardiac arrest was caused by his violent resistance, coupled with the presence of drugs in his system. A reasonable settlement at this time will avoid further litigation costs and a potential verdict that could exceed the proposed settlement.

We join with our private counsel, Franscell, Strickland, Roberts, and Lawrence in recommending settlement of this matter in the amount of \$80,000. The Sheriff's Department concurs in the recommendation.

APPROVED:



ROGER H. GRANBO
Assistant County Counsel
Law Enforcement Services Division

RHG:scr